

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

NOV 28 2017

Clerk, U S District Court
District Of Montana
Billings

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEFFREY MICHAEL LEO,

Defendant.

Cause No. CR 15-66-BLG-SPW

ORDER

On December 15, 2016, Defendant Leo was sentenced to serve 84 months in prison, concurrently with his sentences in two state cases. He now moves the Court to “correct” his sentence so that he receives credit against his federal sentence for time spent in custody before the federal sentence was imposed. He asserts that failure to award this credit was an oversight.

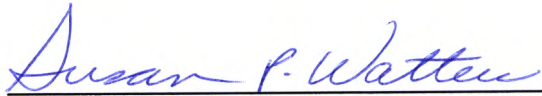
A federal sentence commences on the date it is imposed. *See* 18 U.S.C. § 3585(a). A defendant receives credit for time spent in custody before that date only if he does not receive credit for that time against any other sentence. *See id.* § 3585(b). Calculating credit for time served is a matter for the Bureau of Prisons, not the sentencing court. *See United States v. Wilson*, 503 U.S. 329, 333 (1992).

At Leo’s sentencing hearing, the parties and the Court were aware of these facts. Leo’s counsel asked the Court to reduce the term of his sentence to reflect §

3585(b). *See* U.S.S.G. § 5G1.3(b); Def. Sentencing Mem. (Doc. 39) at 15-16. The Court took § 5G1.3 and other matters into account. Leo's advisory guideline range was 168 to 210 months. Leo was sentenced to 84 months. There was no oversight. Leo's sentence is correct.

Accordingly, IT IS HEREBY ORDERED that Leo's motion to correct the sentence (Doc. 57) is DENIED.

DATED this 28th day of November, 2017.



Susan P. Watters
United States District Court